

Appl. No. 09/620253
Amendment under 37 CFR 1.116 Expedited Procedure
Examining Group 2125 dated November 17, 2005

PATENT

REMARKS/ARGUMENTS

Claims 1 and 3-21 are pending in the application and stand rejected by U.S. Patent 6,464,494. Applicants will address this rejection below.

Examiner's Response to Applicants Arguments

At the outset, since the Examiner has previously appeared to make a series of rejections by moving back through a chain of patents and applications to Rubbert and Sachdeva, Applicants wish to expedite prosecution by summarizing why none of the patents and applications in this chain are available as prior art to the instant invention. The Examiner's previous rejection was based on U.S. 2004/0073417 to Rubbert (the '417 application) which claims to be a continuation-in-part of USSN 09/834,412, filed on April 13, 2001, and further to be a continuation-in-part of application number 09/560,640, filed on April 28, 2000, which was continuation-in-part of application number 09/451,609, filed on November 30, 1999. As Applicants previously pointed out in the prior response, the '417 application is not prior art to Applicants' invention because the instant application has an earlier filing date. Applicants have further reviewed the text of the earliest application (09/451,609) which issued as U.S. Patent No. 6,250,918, and find that the disclosures relied on previously by the Examiner are not present in that application. In regard to the '640 application, this application never published and went abandoned and is thus not available as prior art under 35 U.S.C. § 102(e) which requires that a patent application must have issued or published before the invention by the applicant.

Rejections Under 35 U.S.C. § 102(e)

Claims 1, 3-21 13 stand rejected under U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent 6,464,496 to Sachdeva et al. (The Examiner sometimes refers to the first inventor of this patent as Rubbert, but applicants believe that the Examiner meant to say Sachdeva). Applicants respectfully traverse this rejection in that Sachdeva does not teach all limitations of independent claim 1 and 13 and therefore, their respective dependent claims. In particular, nowhere does Sachdeva teach or suggest generating specific data comprising a tool